

ALABAMA ONSITE WASTEWATER BOARD



ADMINISTRATIVE CODE

Code of Ala. 1975, §34-21A

Amended: January 24, 2006

Adopted: April 12, 2006

Effective Date: June 1, 2006

CHAPTER 628-X-1 DEFINITIONS

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628-X-1-.01 Definition Of Terms

628-X-1-.01 Definition Of Terms.

(1) Code of Ala. 1975, §34-21A-1, provides for definitions of the following terms: Alternative Onsite Wastewater System, Board, Conventional Onsite Wastewater System, Good Standing with Local Health Authorities or Officials, Individual, Installation, License, Licensee, Licensing Procedure, Local Health Authority of Officials, Manufacturer, Onsite Wastewater System, Responsible Charge, Servicing.

(2) Act. The term "Act" as used in these rules shall mean Title 34, Chapter 21A of the Code of Ala. 1975.

(3) Alabama Administrative Procedures Act. The term "Alabama Administrative Procedures Act" refers to the act codified at Title 41, Chapter 22 of the Code of Ala. 1975.

(4) Board. The term "Board" as used in these rules shall mean the Alabama Onsite Wastewater Board. The Board is a 9 member Board of which three members shall be appointed by the Governor, three members shall be appointed by the Lieutenant Governor, and three members shall be appointed by the Speaker of the House of Representatives of the Alabama Legislature. The referenced statute describes the organization, general course, method of operation and method of public information. The public may make submission and request to the Board in writing through the mailing address: P.O. Box 303552 Montgomery, Alabama 36130.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

History: Amended: Filed July 15, 2004;

CHAPTER 628-X-2 ORGANIZATION, ADMINISTRATION AND PROCEDURES OF THE BOARD

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628-X-2-.01 Purpose. The Alabama Onsite Wastewater Board was created to examine, license and regulate persons engaged in manufacturing, installation or servicing of onsite wastewater systems, including portable toilets, in Alabama. This Board was also created to establish the qualification levels for those engaged in the manufacture, installation, servicing, cleaning or pumping of onsite wastewater systems and equipment in Alabama and promote the proper manufacture, installation and servicing of onsite wastewater systems.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

History: Amended: Filed July 15, 2004;

628-X-2-.02 Records Of The Board. All records maintained by the Board, unless protected by state statute or administrative regulation, are open for public inspection during regular business hours. Requests to review or obtain records should be submitted in writing to the Executive Director. All correspondence to the Board, including requests for information and all submissions of the requests should be made to the Executive Director at the Board's office in Montgomery, Alabama.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.03 Meetings. The Board also shall meet quarterly in October, January, April and July of each year and at such other times as the Chairman may designate. Meetings will be governed by the Roberts Informal Rules of Order until such time as the Chairman feels because of meeting disorder the need to invoke the regular Roberts Rules of Order. A quorum of the board shall consist of not less than five of the duly appointed members present.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.04 Voting. All Board members are entitled to make or second motions. A majority of those members of the Board present and voting on any matter shall decide the matter before the Board, except that the Chairman of the board or other Board member presiding as Chairman shall rule upon all questions or procedure and, in the event evidence is taken, on the admissibility of that evidence, consistent with the requirements of Section 13 of the Alabama Administrative Procedures Act. The Chairman shall not regularly vote as a member of the Board, except that in the event of a tie vote, the Chairman shall vote to break the tie. The Board may hold conferences and communicate information through electronic means available to the Board members however; no decisions requiring a vote will be made by electronic means. All voting will be done at called meetings where Board members are present. A Board member who is present at any meeting of the board at which action is taken on any matter is presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting. Any motion passed by the board requires a majority of the members present.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

628-X-2-.05 Declaratory Rulings. The Board may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of any rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such ruling shall be issued provided: (a) The petitioner shows that the petitioner is substantially affected by the rule in question, and sufficient facts are supplied in the request to permit the Board to make a valid determination, and (b) the request arises from an actual question or controversy. The request for a declaratory ruling must be in writing and must be filed on the form prescribed by the Board which is available from

the Executive Director. All properly submitted petitions shall be ruled upon by the Board with sixty calendar days of receipt beginning on the first State of Alabama business day that the petition is received in the office of the Executive Director. If the petition is determined to present an inappropriate request, the Executive Director shall promptly return the petition to the petitioner along with a brief explanation for return.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.06 Advisory Opinions. The Board may, in its discretion, issue an advisory opinion to any licensee, governmental official, or entity substantially affected by a rule or statute enforceable by the Board. Board advisory opinions may address but not necessarily be limited to the applicability of such rule or statute to the licensee, official, or entity or to a meaning and scope of any order of the Board. A request for any advisory opinion must be in writing and must specifically state it is a "request for an advisory opinion."

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.07 Petition For Adoption, Amendment Or Repeal Of Rules. Any person who wishes to propose that the Board adopt, amend, or repeal any rule may do so on the form prescribed by the Board and available from the Executive Director. The Board shall meet and consider any petition of adoption, repeal, or amendment within sixty days of its submission.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

CHAPTER 628-X-3 LICENSING

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628-X-3-.01 Requirement For Licensing. Any individual, business, partnership or corporation advertising, soliciting, bidding, obtaining permit, obtaining a business license, performing the function of manufacturing septic tanks, manufacturing of poured in place tanks, installing, pumping, servicing, repairing, and cleaning portable toilets, installing, cleaning, pumping, servicing, repairing, or maintaining onsite wastewater equipment or systems in Alabama shall have and maintain a current license issued by the Board or have a person in responsible charge who shall have and maintain a current license issued by the Board. The Board shall establish the following types of licenses: A Basic Level Installer's License for the installation, servicing, replacing lids, repairing or maintenance of a conventional onsite wastewater system and shallow placement onsite wastewater systems, including systems with controlled fill requirements, with design flows of up to 1200 GPD. The Alabama Department of Public Health shall define these systems. These systems may include a pump that lifts the effluent to the disposal field. These pumps must be basic on-demand pumps with no control panels; an Advanced Level I Installer's License to allow all work done under the Basic Level License and for the installation, servicing, repairing or maintenance of systems up to 1200 GPD and/or mound systems, simplex pumps with time dosing requirements, on-demand duplex pumps including single family systems with secondary treatment. An Advanced Level II Installers License to allow for all work done under the Basic and Advanced Level I Installers License and for the installation, servicing, replacing lids, repairing, or maintaining all systems 1201 GPD and above, including, multiple pump systems with timed dosing requirements and other advanced technology systems; A Manufacturer's License for those involved in the manufacture of onsite wastewater septic tanks, including tanks poured in place, lids and receptacles; A pumper's License for those pumping, servicing, replacing lids, repairing, replacing or maintaining the component parts of a septic tank; a Portable Toilet License for those involved in installing, transporting, pumping, servicing, repairing, maintaining, and cleaning portable toilets. The Board may develop additional areas and/or levels of licensing at a later date as the industry changes require. Any unlicensed individual, business, partnership or corporation performing work for which a license is required must cease said work upon demand by the Board. A license is current only during the calendar year in which it is issued. Unless renewed, a license

automatically shall expire at the end of the calendar year for which it was issued.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed January 24, 2006

628-X-3-.02 Filing Of License Applications. License applications, annual license renewal applications, and all other applications or submissions required by these rules shall be mailed to the Executive Director. All license applications, annual license renewal applications and any other application or submission will be deemed filed when received by the Executive Director. The Executive Director may reject an application that is inaccurate, incomplete, or for which all fees due have not been paid at the time the application is filed.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

628-X-3-.03 Obtaining A New License. All persons desiring to obtain a license should request from the Executive Director instructions for obtaining any license issued by the Board. Applicants for licensing must satisfy all the eligibility requirements for licensure. The Board shall approve or deny all applications for license. The minimum application requirements shall include, but are not limited to, the applicant's character, business experience, work experience in the requested area of licensure, evidence of bond, and being of legal age. Applicants must have obtained Board prescribed initial training within one year preceding application for testing or have on file with the Board a current Certificate of Education for training exceeding that one year time frame. To keep a Certificate of Education current, the holder must maintain annual CEU's as prescribed for licensees. An application for testing must be completed and returned along with testing fees to the Executive Director. Persons must first obtain a basic level license before qualifying for an advanced level license. To qualify for an Advanced Level I Installers License a Basic Level License holder shall complete a minimum of eighteen (18) basic level systems, have held the Basic Level License for not less than twenty-four (24) months and have obtained the Board required education. Documentation verifying these qualifications have been met must be submitted with the application to test for an

Advanced Level I Installer License. Persons must first obtain an Advanced Level I Installer License before qualifying for an Advanced Level II Installer License. To qualify for an Advanced Level II Installer License an Advanced Level I Installer License holder shall complete a minimum of eighteen (18) advanced level I systems, have held the Advanced Level I Installer License for no less than twenty-four (24) months, and have obtained the Board required education. Documentation verifying these qualifications have been met must be submitted with the application to test for an Advanced Level II Installer License. All candidates qualified for testing will be notified of the testing date at least 30 days in advance of the scheduled examination. The minimum passing grade of licensing examination is 70 percent. Written examination results shall be provided to individuals. Successful candidate will receive information on completion of the licensure process along with their test results. Any person who fails an examination will be provided with information on reapplying. Those testing unsuccessfully can re-test three times with a minimum of fourteen days lapsing between each test. If a passing score is not achieved with the third re-test, the applicant must begin the licensing anew. Applicants for a license to manufacture shall pass an inspection of the manufacturing plant by a member of the Board or some other person designated by the Board to perform manufacturing plant inspections. Any plant holding a current manufacturing certification issued by the National Precast Concrete Association shall be considered to have sufficiently met the plant inspection requirement.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

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628-X-3-.04 Annual Renewal Of Licenses, Consequences Of Failure To Renew.

License is valid only during the calendar year indicated on the license. At the end of the calendar year, all license expires unless it is renewed by the licensee.

1. A person holding an Advanced Installer License at the time these rules are adopted may apply to the Alabama Onsite Wastewater Board to transition their Advanced Installer License to Advanced Level II Installer License by completing necessary paperwork, and providing documentation that as an Advanced Licensed Installer they installed a minimum of five (5) Advanced Level II systems.

2. An Advanced Installer License holder without the experience of having installed Advanced Level II Systems by the time of license renewal following adoption of these rules can transition their license to Advanced Level II Installer license anytime during the

ensuing three (3) years by installing five (5) Advanced Level II License systems.

3. If the Advanced Installer License holder has held an Advanced Installer license for at least twenty-four (24) months, the licensee can fulfill the educational requirements and pass the Advanced Installer Lever II exam with a score of at least seventy percent (70%). Those installers choosing this option must do so within one year of adoption of these licensing changes.

A person holding an Advanced Installer License at the time these rules are adopted not making a license transition during the three years following adoption of these rules will become an Advanced Level I license Installer. To become an Advanced Level II license Installer after three years the Advanced Installer must fulfill the Advanced Level II Installer License requirements. All licensees shall make application for license renewal at least 30 days prior to the expiration of current license. Those not renewing by the last day of the calendar year shall do no work for which a license is required until a renewal license has been issued. The licensee's name will be removed from the Board's official list and the Alabama Department of Public Health and the appropriate local health authorities will be notified of the license expiration. To renew a license, licensees must submit appropriate fees with the applicable application, proof of continuing education and training requirements for each level and type of license, evidence of required bond, and any other documents requested by the board or the Executive Director. Renewal applications and forms should be requested from the Executive Director. Continuing education units or professional development hours required for renewing a license shall be set by resolution of the Board. Failure to meet renewal requirements shall result in the expiration and possible revocation of the license.

- (a) Failure to renew a license before the close of business on December 31 will result in restoration fees being assessed by the Board.
- (b) A license which has expired for failure to renew may only be restored within one year from the date of expiration after application and payment of the license restoration fee established by the Board.
- (c) Any license which has not been restored within one year following its expiration may not be renewed, restored, or reissued, and the holder may apply for and obtain a new license only upon compliance with all qualifications and requirements for the issuance of a new license.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004

Amended: Filed January 24, 2006

628-X-3-.05 Replacement Licenses. Applications for replacement licenses may be obtained from the Executive Director. Applications and appropriate fees must be submitted and reviewed by the Director and/or Board before replacement licenses are issued. Reasons for requesting replacement licenses will be reviewed and taken into consideration by the Board and/or Executive Director when determining whether or not to issue a replacement license.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-3-.06 Inactive Licenses. Applications to cause the status of a license to be inactive may be obtained from the Executive Director. Persons holding inactive licenses shall not perform any work under the auspices of being a licensed dealer, installer or pumper. Persons in possession of an inactive license shall maintain educational requirements as set by the Board of Executive Director on a case by case basis. Appropriate fees must be submitted as directed by the Board and/or Executive Director for issuance of an inactive license and annual renewal of the inactive license. Forms and instructions to reactivate the license may be obtained from the Executive Director.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-3-.07 Roster Of Licensees. Copies of the roster shall be made available from the Executive Director as well as obtained from the website that shall be updated on a weekly basis.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

CHAPTER 628-X-4 FEES

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Time Of Payment; Fees Not Refundable
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**628-X-4-.01 When Required; Failure For Timely Payment; Method Of Payment;
Time Of Payment; Fees Not Refundable.** An application for a license or a
request for which a fee is required, must be accompanied by payment of the
requisite in full, or else the application or request shall be denied.
Fees may be paid by a personal check, certified check, cashier's check or
money order. Fees are deemed paid when the funds represented by the check
or money order are actually received or made available to the Board's
Executive Director. No fee or part of fee paid by an applicant for a
license, or any request for which a fee is required, shall be refunded for
any reason.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-4-.02 Amount Of Fees.

(1) Application fee for any license - \$25.00

(2) Exam fee for any license - \$100.00

(3) Annual license fee for

(a):	Basic Level License	\$200.00
	Pumper License	\$200.00
	Portable Toilet License	\$200.00
	Manufacturer License	\$200.00
(b)	Advanced Level I Installer License	\$300.00
(c)	Advanced Level II Installer License	\$500.00

(4) A person licensed in more than one category must purchase first the most advanced license for which they have qualified. Additional license fee for other categories shall be \$100.00.

(5) Failure to renew license by December 31 of each calendar year - \$100.00

(6)Replacement Licenses - \$25.00

(7)Obtaining Inactive Licenses - \$25.00

(8)Reinstatement of Inactive License - regular license fee

(9)Annual Renewal of Inactive License - \$25.00

(10)Revocation of License - \$1,000.00 in addition to all Board requirements

(11)Fee to maintain record of Certificate of Education - \$25.00 plus Certificate of annual continuing education training

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed February 1, 2002; effective March 8, 2002.

Amended: Filed July 15, 2004;

Amended: Filed January 24, 2006

CHAPTER 628-X-5 ENFORCEMENT AND DISCIPLINARY ACTIONS

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628-X-5-.01 Initiation Of Proceedings And Procedure For Investigation. The Board may initiate proceedings as it deems appropriate to investigate and determine violations of the provisions of this Act. Persons reporting alleged violations shall do so in writing or by phone to the Executive Director or any Board member. Persons alleging violations of this Act by any other person may request the Board to hold identifying information in a confidential manner. The Board shall adopt by resolution the procedures for investigations of complaints against licensees. Said resolution shall be available at the office of the Executive Director.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.02 Hearings. All disciplinary hearings and/or contested case hearings shall be conducted in accordance with the Alabama Administrative Procedures Act, specifically but not limited to Sections 12, 13, 14, 15, 16, 17, 18, and 19, as if set out full herein.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.03 Discipline. The Board shall take appropriate action to enforce these rules with regard to licensee suspension and revocation. The Board may revoke or suspend licenses of parties found to be guilty of any violation of the Act or these rules, and also these circumstances shall include, but not be limited to, the following:

- (1) Obtaining a license under false pretense.
- (2) Obtaining a license by having another person take the examination.

- (3) Allowing another person to use the license in violation of the regulations of this board.
- (4) Selling or conveying the license to another person.
- (5) Failure to timely renew a license.
- (6) Failure to follow the rules and regulations of the State of Alabama Department of Public Health or the appropriate local health department or authorities.
- (7) Committing a dishonest, illegal, or grossly negligent act in the performance of work covered under the license.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004

628-X-5-.04 Appeals. Final actions of the Board may be appealed in accordance with Alabama Administrative Procedures Act, specifically but not limited to Sections 20 and 21, as if set out in full herein.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.05 Reinstatement Of Licenses After Revocation Or Suspension.

Applications for reinstatement of licenses may be submitted to the Board. The applicant shall include in the application for reinstatement the reasons why the license should be reinstated and shall specifically set forth any change in circumstances that would justify reinstatement. The application for reinstatement must include evidence that the applicant meets the current licensure requirements for and, unless excused by the Board, the applicant must qualify for a licensure through all the procedures, including testing, experience, proof of required bonding and ability that is required for initial testing. Upon receipt of such application, the board may grant the applicant a hearing on reinstatement, at which time the applicant may appeal to the Board to reinstate the applicant's license. All fees for testing, issuance of license and a reinstatement fee of \$1,000 must be paid before re-issuance of license. Procedures for reinstatement of suspended licenses shall be set by the Board at the time of suspension.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

628-X-5-.06 Conflict Or Bias. No board member shall be entitled to vote or to otherwise participate in any hearing or disciplinary matter if the Board member is personally biased for or against the respondent or when such voting or participation would violate the provisions of the Alabama Administrative Procedures Act, Section 18(a). Any party in a hearing or respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing with the Executive Director at least three days prior to the scheduled hearing a suggestion of disqualification and a supporting affidavit setting forth the factual basis for the suggestion. The Board shall consider the suggestion of disqualification on the record as a preliminary matter at the hearing before any other question is decided.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.07 Institution Of Criminal Proceedings. Upon receipt of evidence that any person has: undertaken or attempted to undertake the business of manufacturing, installing or maintaining an onsite wastewater system or any component thereof, without first having procured a valid license as required by the Act, knowingly presented to or filed false information with the Board for the purpose of obtaining a license, or any other violation of law which the Board deems worthy of reporting to appropriate government agencies, the Executive Director or designee, acting on the instructions of the Board, shall present such evidence to the appropriate governmental authority within the county of which the violator resides and may file a complaint regarding the violations of the Act directly with the sheriff in the appropriate county.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.